

charging that it was misbranded. It was labeled in part: "Superfine Brand Early June Peas."

The article was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law but its quality fell below such standard and its label failed to bear in such manner and form as the regulations specify, a statement that it fell below such standard.

On May 28, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**3749. Misbranding of canned spinach. U. S. v. 45 Cases of Canned Spinach. Consent decree of condemnation. Product ordered released under bond for relabeling.** (F. D. C. No. 7077. Sample No. 83559-E.)

Examination showed that this product was not of Fancy quality, as labeled, because of the presence of fibrous and hollow stems, and yellow leaves.

On March 30, 1942, the United States attorney for the Northern District of Texas filed a libel against 45 cases, each containing 24 cans, of spinach at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about January 16, 1942, by Griffin Grocery Co. from Muskogee, Okla.; and charging that it was misbranded in that the term "Fancy" was false and misleading as applied to an article that was not of Fancy quality. It was labeled in part: "Griffins Money Back Fancy Spinach."

On May 19, 1942, Griffin Grocery Co. of Dallas, Tex., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled.

**3750. Misbranding of canned spinach. U. S. v. 298 Cases and 198 Cases of Canned Spinach. Consent decrees of condemnation. Product ordered released under bond for relabeling.** (F. D. C. No. 7164. Sample Nos. 95042-E, 95044-E.)

Examination showed that this product was not of Fancy quality, as labeled, because of the presence of excessive quantities of yellow and brown leaves.

On April 7, 1942, the United States attorney for the Western District of New York filed libels against 298 cases each containing 24 cans, and 198 cases each containing 24 cans of spinach at Buffalo, N. Y., alleging that the article had been shipped by G. W. Hume Co. from San Francisco, Calif., on or about March 24, 1942; and charging that it was misbranded in that the term "Fancy" was false and misleading as applied to an article that was not of Fancy quality. The article was labeled in part: (Cans) "BestTaste Fancy Spinach. Contents 1 Lb. 2 Oz. [or "1 Lb. 11 Oz.]" Distributed By Bestaste Products Co. Buffalo, N. Y."

On May 8, 1942, G. W. Hume Co. having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

#### TOMATOES AND TOMATO PRODUCTS

**3751. Action to enjoin and restrain interstate shipment of adulterated tomatoes and tomato products. U. S. v. Val Vita Food Products, Inc. Consent decree perpetually enjoining the defendant from interstate shipment of adulterated tomato products.** (Inj. No. 27.)

On March 4, 1942, the United States attorney for the Southern District of California filed a bill of complaint against Val Vita Food Products, Inc., Fullerton, Calif., alleging that the defendant was engaged in the processing and packing of tomatoes and tomato products for introduction and delivery for introduction into interstate commerce to be used as food. The complaint alleged further, on information and belief, that the defendant had on hand in January 1942, 11,747 cases of tomato products packed on the same days as other lots known by the Government to be adulterated, and 15,003 cases of tomato products in which the mold condition was questionable. It was alleged further that during the years 1933, 1934, and 1935 inspection of the defendant's factory at Fullerton, Calif., indicated that unfit and objectionable tomatoes were being used in the processing and canning of tomato products, and that during such period the defendant had been warned repeatedly to use greater care in removing objectionable material from the products that were to be shipped in interstate commerce; that during the years 1936, 1937, 1938, 1939, and 1940 the Government had made a large number of seizures of tomato products processed by the defendant which were found to be wormy or moldy or both; that during the year 1941 the defendant continued the packing of wormy and

moldy tomatoes for shipment into interstate commerce, and inspection on September 8, 1941, showed that objectionable material was being crushed into puree and that trimming stock used contained 4 percent worm infestation and that small tomatoes showing a live pinworm infestation of 2 percent were also being used; that the Government on January 26, 1942, had inspected tomato products packed by the defendant in October and November, 1941 and had taken samples which showed mold count in excess of 40 percent, and that an examination of the defendant's books showed that their own chemists had found similar conditions of mold to exist in such products; that the defendant had withdrawn lots of products awaiting shipment into interstate commerce when it had been learned that the lots had been sampled by Government inspectors; and that it had become necessary for the protection of the consumer that the defendant be forever enjoined from introducing or delivering for introduction into interstate commerce such adulterated products. The complaint prayed that a temporary restraining order be issued forthwith; that pending final determination, the court issue a preliminary injunction; and that thereafter and on final hearing, the preliminary injunction be made permanent.

On March 4, 1942, the court ordered that the defendant and all acting upon its behalf be restrained and enjoined, until March 10, 1942, from introducing or delivering for introduction into interstate commerce any tomatoes or tomato products that it had packed. On April 24, 1942, the defendant having consented to the entry of a decree without admitting any of the allegations of the complaint, judgment was entered *nunc pro tunc* as of March 25, 1942, permanently enjoining the defendant and all acting upon its behalf from introducing or delivering for introduction into interstate commerce any tomatoes or tomato products processed, manufactured, canned, or bottled by it which were adulterated or might thereafter be adulterated.

**3752. Adulteration of tomatoes and tomato paste. U. S. v. Manteca Canning Co. Plea of guilty. Fine, \$750. (F. D. C. No. 7245.) Sample Nos. 21619-E, 22777-E, 23574-E.)**

These products contained excessive mold, indicating the presence of decomposed material.

On July 10, 1942, the United States attorney for the Northern District of California filed an information against Manteca Canning Co., Manteca, Calif., alleging shipment within the period from on or about November 12, 1941, to on or about January 7, 1942, from the State of California into the States of Missouri, Pennsylvania, and New York, of quantities of tomatoes and tomato paste that were adulterated in that they consisted in whole or in part of decomposed substances. The articles were labeled variously in part: (Cans) "Mattina Brand Tomato Paste"; "Tux Brand Tomato Paste \* \* \* Distributed By George B. Vrooman, Inc., Philadelphia, Penna."; or "Clara Brand Peeled Tomatoes with Puree \* \* \* Packed in California for Sansone Food Products Co., Brooklyn, N. Y."

On July 29, 1942, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$750.

**3753. Adulteration of canned tomatoes. U. S. v. 91 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. D. C. No. 7349. Sample No. 90395-E.)**

Examination showed that this product was undergoing progressive spoilage.

On April 16, 1942, the United States attorney for the District of Vermont filed a libel against 91 cases, each containing 6 cans, of tomatoes at Brattleboro, Vt., alleging that the article had been shipped in interstate commerce on or about August 8, 1941, by A. W. Sisk & Son from Snow Hill, Md.; and charging that it was adulterated in that it consisted wholly or in part of a decomposed substance. The article was labeled in part: "Chief Cook Brand Tomatoes. Net Contents 6 Lbs. 6 Oz. [or "6 Lbs. 4 Oz."] The Wm. Silver Co., Inc. [or Wm. Silver & Co.], Aberdeen, Maryland, U. S. A. Distributors."

On June 8, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

Nos. 3754 to 3756 report the seizure and disposition of canned tomatoes that were substandard in quality because of the presence of excessive peel. One brand of tomatoes described in No. 3754 also contained an excessive number of blemishes.